

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SUSANNA MIRKIN, Individually and on
Behalf of All Others Similarly Situated

Plaintiff,

Case No.: 18 Civ. 2949 (ARR) (JAM)

v.

XOOM ENERGY, LLC and XOOM
ENERGY NEW YORK, LLC,

Defendants.

**DECLARATION OF J. BURKETT MCINTURFF IN FURTHER SUPPORT OF
PLAINTIFF SUSANNA MIRKIN AND THE CERTIFIED CLASS'S
MOTIONS IN LIMINE**

J. Burkett McInturff, an attorney duly admitted to practice before the Eastern District of New York, declares the following under penalty of perjury and pursuant to 28 U.S.C. § 1746:

1. My firm, Wittels McInturff Palikovic, is Class Counsel for Plaintiff Susanna Mirkin and the Class. Based on my active participation in all material aspects of the prosecution of this class action against Defendants XOOM Energy, LLC and XOOM Energy New York, LLC (together, "Defendants" or "XOOM"), I have personal knowledge of the matters set forth herein.

2. I make this Declaration in Further Support of Plaintiff Susanna Mirkin and the Certified Class's Motions *in Limine* and to authenticate the attached exhibits referenced in the accompanying Reply Memorandum of Law in Support of those motions.

I. Authenticating Documents

3. Attached hereto as **Reply Exhibit A** is a true and correct copy of Plaintiff's First Set of Requests for Production, dated September 4, 2019.

4. Attached hereto as **Reply Exhibit B** is a true and correct copy of Plaintiff's Second Set of Requests for Production, dated August 14, 2020.

5. Attached hereto as **Reply Exhibit C** is a true and correct copy of Plaintiff's Third Set of Requests for Production, dated November 8, 2021.

6. Attached hereto as **Reply Exhibit D** is a true and correct copy of XOOM's Responses and Objections to Plaintiff's Second Set of Interrogatories, dated September 30, 2020.

7. Attached hereto as **Reply Exhibit E** is a true and correct copy of excerpts from the deposition of XOOM's Rule 30(b)(6) corporate witness, Director of Pricing and Structuring Jason Loehde, dated July 28, 2022, pp. 1, 91–92, 295.

8. Attached hereto as **Reply Exhibit F** is a true and correct copy of excerpts from the deposition of Jason Loehde, XOOM's Director of Pricing and Structuring, dated July 27, 2022, pp. 1, 251, 316.

9. Attached hereto as **Reply Exhibit G** is a true and correct copy of a Con Edison bill with personal information redacted.

Dated: New York, New York
July 1, 2024

Respectfully submitted,

/s/ J. Burkett McInturff
J. Burkett McInturff

CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2024, the foregoing was served filed on ECF and served via email on all counsel of record.

By: /s/ J. Burkett McInturff
J. Burkett McInturff